

DEPARTMENT OF STATE REVENUE

Information Bulletin #105
General Tax
December 2019
(Replaces Commissioner's Directive #56 dated May 2016)
Effective Date: Upon Publication

SUBJECT: Public hearings required to find evidence to support the revocation of a registered retail merchant's certificate ("RRMC")

REFERENCES: [IC 6-2.5-8-1](#); [IC 6-2.5-8-7](#)

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SUMMARY OF CHANGES

Aside from technical, nonsubstantive changes, this bulletin effectively provides the same information as it had before when it was published under the title Commissioner's Directive #56, except for additional information concerning a person's conviction for a violation of [IC 35-48-4-10\(d\)\(3\)](#), which was added as an amendment to [IC 6-2.5-8-7](#) per Senate Enrolled Act 52 (2018), and an amendment to [IC 6-2.5-8-7\(i\)](#) and (j) per House Enrolled Act 1186 (2019).

I. INTRODUCTION

Indiana law requires that a public hearing be held prior to the Indiana Department of Revenue's determination that a registered retail merchant's certificate (or RRMC, issued pursuant to [IC 6-2.5-8-1](#)) should be revoked, so that evidence supporting revocation can be presented. The department has a basis for revocation of the RRMC if the department finds, by a preponderance of the evidence, in the public hearing that a registered retail merchant has committed any of the following:

- [IC 6-2.5-8-7\(a\)\(2\)](#) - Being charged with a violation of any provision under [IC 35](#) (Indiana Criminal Law and Procedure);
- [IC 6-2.5-8-7\(g\)](#) - A violation of [IC 35-45-5-3](#) (Professional Gambling), [IC 35-45-5-3.5](#) (Electronic Gambling, Maintaining a Professional Gambling Site), or [IC 35-45-5-4](#) (Promoting Professional Gambling);
- [IC 6-2.5-8-7\(i\)](#) - A conviction for an offense under [IC 35-48-4](#) involving the sale of or the offer to sell, in the normal course of business, a synthetic drug (as defined in [IC 35-31.5-2-321](#)), a controlled substance analog (as defined in [IC 35-48-1-9.3](#)), or a substance represented to be a controlled substance (as described in [IC 35-48-4-4.6](#)); or
- [IC 6-2.5-8-7\(j\)](#) - Prior to July 1, 2019, a conviction for a violation of [IC 35-48-4-10.5](#) (before its repeal on that date, which pertained to dealing in Synthetic Drugs and dealing in Synthetic Drug Lookalike Substances) as an infraction.

Additionally, the department is required to suspend the RRMC for a place of business for one year if the department finds in a public hearing by a preponderance of the evidence that a person has a conviction for a violation of [IC 35-48-4-10\(d\)\(3\)](#), which involves marijuana, hash oil, hashish, or salvia packaged in a manner that appears to be low THC hemp extract. The department also may not issue for one year another RRMC to any person whose retail merchant certificate was suspended for a violation of [IC 35-48-4-10\(d\)\(3\)](#).

II. LOCATION OF PUBLIC HEARING

The department's hearings shall be held for the benefit of the public at the department's offices in Marion County, Indiana.

III. NOTICE OF THE PUBLIC HEARING

Notice of the Public Hearing shall be provided as required under the Public Meetings Act (Open Door Law) [IC 5-14-1.5-1](#) *et seq.*

IV. PROCEDURES

The procedures for the department's hearings shall be informal in order to permit members of the public a full and fair opportunity to provide evidence to the department. This allows the department to decide if revocation of the RRMC is required. Any party may record the public hearing. The department shall provide one employee to officiate and keep minutes of the meeting at the public hearing and one employee or designee to provide evidence on behalf of the department or other governmental entity. The department shall comply with all requirements of Indiana's Open Door Law, including, but not limited to, posting an agenda, and keeping a memoranda of minutes.

RRMC revocation hearing questions should be directed to the following address:

Indiana Department of Revenue
Tax Policy Division
100 N. Senate, Room N248
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Adam J. Krupp
Commissioner

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